

§ 221.761

to mortgages insured under this subpart that provide for interest at the market rate prescribed in § 221.518(a) except that as to mortgages insured under this subpart pursuant to section 238(c) of the Act all mortgage insurance premiums due in accordance with §§ 207.252 and 207.252a shall be calculated on the basis of one percent. The provisions of § 207.252. shall not apply to:

(a) Mortgages that provide for interest during the construction period at the market rate and for interest subsequent to final endorsement at the below market rate prescribed in § 221.518(b); or

(b) Mortgages encumbering a project in which all units are covered by an annual contributions contract issued pursuant to section 10(c) of the Housing Act of 1937.

[36 FR 24587, Dec. 22, 1971, as amended at 42 FR 59675, Nov. 18, 1977]

§ 221.761 Forbearance relief.

(a) In a case where the mortgage is in default, the mortgagor and the mortgagee may enter into a forbearance agreement for the reduction or suspension of regular mortgage payments for a specified period of time, if the following requirements are met:

(1) The mortgage was endorsed for insurance on or after July 7, 1961.

(2) The Commissioner determines that the default was due to circumstances beyond the mortgagor's control and that the mortgage probably will be restored to good standing within a reasonable period of time and evidences such determination by written approval of the forbearance agreement.

(b) The time specified in § 207.258(a) of this chapter, within which a mortgagee shall give the Commissioner written notice of its intention to file an insurance claim, shall be suspended for the period of time specified in the forbearance agreement as long as the mortgagor complies with the requirements of such agreement.

(c) If the mortgagor fails to meet the requirements of a forbearance agreement or to cure the default under the mortgage at the expiration of the forbearance period, and such failure continues for a period of 30 days, the mort-

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gagee shall notify the Commissioner of such failure. Within 45 days thereafter, unless a modification or extension of the forbearance agreement has been approved by the Commissioner, the mortgagee shall notify the Commissioner of its election to file an insurance claim and of its decision to either assign the mortgage to the Commissioner or to acquire and convey title to the property to the Commissioner. If the mortgage is assigned to the Commissioner, the special insurance benefits prescribed in § 221.763 shall be applicable.

[36 FR 24587, Dec. 22, 1971, as amended at 51 FR 27838, Aug. 4, 1986]

§ 221.762 Payment of insurance benefits.

All of the provisions of § 207.259 of this chapter relating to insurance benefits apply to multifamily project mortgages insured under this subpart, except as provided in this section:

(a) *Method of payment.* All of the insurance benefits provided by § 207.259 (b) or (c) of this chapter shall be paid in cash unless the mortgagee files with the application a written request for payment in debentures. If such a request is made, payment will be made in debentures with a cash payment to adjust any difference between the total amount of the insurance settlement and the amount of the debentures issued.

(b) *Below market interest rate mortgages.* Where the mortgage has been finally endorsed and the special below market interest rate provided in § 221.518(b) is applicable as of the date of default, the 1 percent deduction from insurance benefits prescribed in § 207.259(b)(2)(iv) of this chapter shall not be applicable.

(c) *Mortgages financed with section 11(b) obligations.* Where the funds for a mortgage loan are provided by obligations that are tax-exempt under section 11(b) of the United States Housing Act of 1937 (24 CFR part 811), the one percent deduction from insurance benefits prescribed in § 207.259(b)(2)(iv) of this chapter shall not be applicable to claims with respect to multifamily rental housing projects for which a